

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

TYSHAUN MOSLEY,

Plaintiff,

No. 9:11-cv-1490

-v-

P. WOODLY,¹ Correction Captain, Clinton Correctional Facility; K. MATTOT,² Correction Sergeant, Clinton Correctional Facility; P. FESSETTE, Correction Sergeant, Clinton Correctional Facility; M. GUYNUP, Correction Sergeant, Clinton Correctional Facility; W. LECLAIR, Correction Officer, Clinton Correctional Facility; JOHN DOE, Correction Officer, Clinton Correctional Facility,

Defendants.

APPEARANCES:

OF COUNSEL:

TYSHAUN MOSLEY
Pro Se Plaintiff
09-A-1628
Orleans Correctional Facility
3531 Gaines Basin Road
Albion, NY 14411

HON. ERIC T. SCHNEIDERMAN
Attorney General for the State of New York
Attorney for Defendants
The Capitol
Albany, NY 12224

ROGER W. KINSEY, ESQ.
Ass't Attorney General

DAVID N. HURD
United States District Judge

¹ The correct spelling of this defendant's name is "Woodruff" and he will be referred to as such. The Clerk is directed to amend the caption accordingly.

² The correct spelling of this defendant's name is "Matott" and he will be referred to as such. The Clerk is directed to amend the caption accordingly.

DECISION and ORDER

Plaintiff brought this action pursuant to 42 U.S.C. § 1983. On August 29, 2013, the Honorable Randolph F. Treece, United States Magistrate Judge, advised by Report-Recommendation that defendants' motion for summary judgment be granted in part and denied in part. No objections to the Report-Recommendation were filed.

Based upon a careful review of the entire file and the recommendations of the Magistrate Judge, the Report-Recommendation is accepted in whole. See 28 U.S.C. § 636(b)(1).

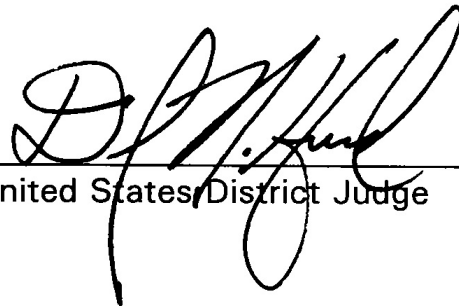
Therefore it is

ORDERED that

1. Defendants' motion for summary judgment is GRANTED as follows:
2. Plaintiff's deliberate medical indifference claim against defendants Matott, Fessette, Guynup, and LeClair are DISMISSED;
3. Plaintiff's due process claim against defendant Woodruff is DISMISSED;
4. Plaintiff's claims against all defendants in their official capacities are DISMISSED;
5. Defendants' motion for summary judgment is DENIED as to plaintiff's excessive force claim against defendant LeClair and DENIED as to plaintiff's failure to protect claim against defendants Matott, Fessette, and Guynup; and
6. Defendant John Doe is DISMISSED from this action as a result of plaintiff's failure to timely identify and serve him.

The Clerk is directed to serve a copy of this Decision and Order upon the parties in accordance with the Local Rules.

IT IS SO ORDERED.



United States District Judge

Dated: September 23, 2013
Utica, New York.